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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,293	09/14/2000	Catherine A. McCall	AL-2-C4	9793

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EXAMINER	
WOITACH, JOSEPH T	

ART UNIT	PAPER NUMBER
1632	

DATE MAILED: 04/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

File

Office Action Summary	Application No. 09/662,293	Applicant(s) McCall et al.
	Examiner Joseph Woitach	Art Unit 1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Jan 21, 2001*.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☒ Claims *1-31* are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *Sep 14, 2000* is/are a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

This application filed September 14, 2000, is a continuation in part of 09/292,225, filed April 15, 1999, which claims priority to provisional applications: 60/098,909, filed September 2, 1998; 60/085,295, filed May 13, 1998; and 60/098,565, filed April 17, 1998.

Applicants Response filed January 10, 2001, paper number 6, has been received and entered. Upon review of the pending claims a new restriction requirement is set forth below.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-8, 16-18, 22, 24 and 25, drawn to an isolated nucleic acid set forth in SEQ ID NOs 14 and 16, a cell or recombinant virus containing said nucleic acid, a method of producing a protein from said nucleic acid, and a method to desensitizing a host animal by administration of said nucleic acid, classified in class 536, subclass 23.1, class 514, subclass 44, class 435, subclass 70.1.

II. Claims 1-8, 16-18, 22, 24 and 25, drawn to an isolated nucleic acid set forth in SEQ ID NOs 17 and 19, a cell or recombinant virus containing said nucleic acid, a method of producing a protein from said nucleic acid, and a method to desensitizing a host animal by administration of said nucleic acid, classified in class 536, subclass 23.1, class 514, subclass 44, class 435, subclass 70.1.

III. Claims 1-8, 16-18, 22, 24 and 25, drawn to an isolated nucleic acid set forth in SEQ ID NOs 20 and 22, a cell or recombinant virus containing said nucleic acid, a method of producing a protein from said nucleic acid, and a method to desensitizing a host animal by administration of said nucleic acid, classified in class 536, subclass 23.1, class 514, subclass 44, class 435, subclass 70.1.

IV. Claims 1-8, 16-18, 22, 24 and 25, drawn to an isolated nucleic acid set forth in SEQ ID NOs 34 and 36, a cell or recombinant virus containing said nucleic acid, a method of producing a protein from said nucleic acid, and a method to desensitizing a host animal by administration of said nucleic acid, classified in class 536, subclass 23.1, class 514, subclass 44, class 435, subclass 70.1.

V. Claims 1-8, 16-18, 22, 24 and 25, drawn to an isolated nucleic acid set forth in SEQ ID NOs 37 and 39, a cell or recombinant virus containing said nucleic acid, a method of producing a protein from said nucleic acid, and a method to desensitizing a host animal by administration of said nucleic acid, classified in class 536, subclass 23.1, class 514, subclass 44, class 435, subclass 70.1.

VI. Claims 1-8, 16-18, 22, 24 and 25, drawn to an isolated nucleic acid set forth in SEQ ID NOs 40 and 42, a cell or recombinant virus containing said nucleic acid, a method of producing a protein from said nucleic acid, and a method to desensitizing a host animal by administration of said nucleic acid, classified in class 536, subclass 23.1, class 514, subclass 44, class 435, subclass 70.1.

VII. Claims 1-8, 16-18, 22, 24 and 25, drawn to an isolated nucleic acid set forth in SEQ ID NOs 43 and 45, a cell or recombinant virus containing said nucleic acid, a method of producing a protein from said nucleic acid, and a method to desensitizing a host animal by administration of said nucleic acid, classified in class 536, subclass 23.1, class 514, subclass 44, class 435, subclass 70.1.

VIII. Claims 1-8, 16-18, 22, 24 and 25, drawn to an isolated nucleic acid which encodes the amino acid sequence set forth in SEQ ID NO: 33, a cell or recombinant virus containing said nucleic acid, a method of producing a protein from said nucleic acid, and a method to desensitizing a host animal by administration of said nucleic acid, classified in class 536, subclass 23.1, class 514, subclass 44, class 435, subclass 70.1.

IX. Claims 9-12, 14-17, 19-20 and 21-24, drawn to an isolated protein encoded by a nucleic acid which hybridizes to SEQ ID NO 16, and a method of desensitizing a host animal by administration of said protein, classified in class 530, subclass 350.

X. Claims 9-12, 14-17, 19-20 and 21-24, drawn to an isolated protein encoded by a nucleic acid which hybridizes to SEQ ID NO 19, and a method of desensitizing a host animal by administration of said protein, classified in class 530, subclass 350.

XI. Claims 9-12, 14-17, 19-20 and 21-24, drawn to an isolated protein encoded by a nucleic acid which hybridizes to SEQ ID NO 22, and a method of desensitizing a host animal by administration of said protein, classified in class 530, subclass 350.

XII. Claims 9-12, 14-17, 19-20 and 21-24, drawn to an isolated protein encoded by a nucleic acid which hybridizes to SEQ ID NO 36, and a method of desensitizing a host animal by administration of said protein, classified in class 530, subclass 350.

XIII. Claims 9-12, 14-17, 19-20 and 21-24, drawn to an isolated protein encoded by a nucleic acid which hybridizes to SEQ ID NO 39, and a method of desensitizing a host animal by administration of said protein, classified in class 530, subclass 350.

XIV. Claims 9-12, 14-17, 19-20 and 21-24, drawn to an isolated protein encoded by a nucleic acid which hybridizes to SEQ ID NO 42, and a method of desensitizing a host animal by administration of said protein, classified in class 530, subclass 350.

XV. Claims 9-12, 14-17, 19-20 and 21-24, drawn to an isolated protein encoded by a nucleic acid which hybridizes to SEQ ID NO 45, and a method of desensitizing a host animal by administration of said protein, classified in class 530, subclass 350.

XVI. Claims 13, 16, 17, 22 and 24 drawn to an antibody to the protein recited in claim 9 and a method of desensitizing a host animal by administration of said antibody, classified in class 435, subclass 7.1.

XVII. Claims 16, 17, 22 and 24, drawn to a therapeutic composition comprising a mimetope and a method of desensitizing a host animal by administration of a mimetope, classified in class 514, subclass 1.

XVIII. Claims 16, 17, 22 and 24, drawn to a therapeutic composition comprising a mutein and a method of desensitizing a host animal by administration of a mutein, classified in class 514, subclass 1.

XIX. Claims 16, 17, 22 and 24, drawn to a therapeutic composition comprising a inhibitor and a method of desensitizing a host animal by administration of a inhibitor, unclassifiable because there is not an adequate description of an inhibitor in the specification.

XX. Claims 26, 28-31, drawn to a reagent comprising non-proteinaceous epitope and a method of using same, classified in class 514, subclass 1.

XXI. Claim 27, drawn to an antibody that selectively binds to a non-proteinaceous epitope, classified in class 435, subclass 7.1.

Claims 16, 17, 22 and 24 are generic to groups I-XIX and will be examined to the extent in which they are encompassed by the selected invention. Claims 1-8, 16-18, 22, 24 and 25 are generic to groups I-VIII and will be examined to the extent they encompass the elected invention. Claims 9-12, 14-17, 19-20 and 21-24 are generic to groups IX-XV and will be examined to the extent in which they encompass the elected invention.

The inventions are distinct, each from the other because of the following reasons:

Groups I-VIII are drawn to distinct products capable of separate use. Each of groups I-VIII encompass a unique polynucleotide sequence and uses thereof. Further, each polynucleotide encodes a unique polypeptide. Each of the polynucleotides can be used separately to specifically identify or isolate said polynucleotide in a mixed sample. The polynucleotide set forth in one SEQ ID NO would anticipate or render obvious the polynucleotide of another SEQ ID NO.

Groups IX-XV are drawn to distinct products capable of separate use. Each of groups IX-XV encompass a unique polypeptide sequence encoded by unique and different polynucleotide sequences. Each of the different polypeptides can be used to generate antibodies which specifically identify each of the different polypeptides encoded by the different SEQ ID NOs.

Groups I-VIII, IX-XV, and XVI and XXI are drawn to distinct products capable of separate use. The nucleic acid of group I-VIII can be used as a probe in hybridization assays, the polypeptides of group IX can be used to produce antibodies, and the antibody of groups X and XV can be used to purify or identify an antigen from a sample.

Claims XVI and XXI are independent and distinct, each product is an antibody, however the epitope recognized by the antibodies are different and unique. The antibody of group X can be used to identify the proteins recited in claim 9 and the antibody of claim XV can be used to identify non-proteinaceous epitopes.

Groups I-XVI, XXI and XVI-XX are drawn to different products and methods capable of independent and separate use. The products of groups I-XVI, XXI are different than those set forth in groups XVI-XX and are not necessary to practice the methods of groups XVI-XX.

Groups XI-XIII are drawn to different and distinct products and methods. The methods and products of groups XVI-XX each comprise different starting products and the use of said products, and each method would require different and unique preparations and steps to practice.

The inventions above are independent and distinct, each from the other. They have acquired a separate status in the art as a separate subject for inventive effect and require independent searches. The search for each of the above invention is not co-extensive particularly with regard to the literature search. Further, a reference which would anticipate the invention of any one Group would not necessarily anticipate or make obvious any of the other groups.

For these reasons restriction for examination is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Woitach whose telephone number is (703)305-3732.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Reynolds, can be reached at (703)305-4051.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group analyst Dianiece Jacobs whose telephone number is (703) 308-2141.

Papers related to this application may be submitted by facsimile transmission. Papers should be faxed via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center numbers are (703)308-4242 and (703)305-3014.

Joseph T. Woitach

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